

facilities and personnel which applicant proposes to utilize and a description of the arrangements which applicant has made or will make to assume responsibility for the operation and management of those facilities.

(c) The application shall contain assurances satisfactory to the Secretary that the applicant will:

(1) Where applicant is providing services, provide such services at a level and range which is not less than that provided by the Indian Health Service or that identified by the Service after negotiation with the applicant, as an appropriate level, range and standard of care.

(2) Where providing services, provide services in accordance with law and applicable Indian Health Service policies and regulations.

(3) Where providing services, provide services in a fair and uniform manner, consistent with medical need, to all Indian people.

(Approved by the Office of Management and Budget under control number 0915-0045)

[40 FR 53143, Nov. 14, 1975, as amended at 50 FR 1853, Jan. 14, 1985]

#### § 136.105 Project elements.

A project supported under this subpart must:

(a) Have sufficient, adequately trained staff in relation to the scope of the project.

(b) Maintain a mechanism for dealing with complaints regarding the delivery of health services or performance of project activities.

(c) Hold confidential all information obtained by the personnel of the project from participants in the project related to their examination, care, and treatment, and shall not release such information without the individuals' consent except as may be required by law, as may be necessary to provide service to the individual, or as may be necessary to monitor the operations of this program or otherwise protect the public health. Information may be disclosed in a form which does not identify particular individuals.

(d) Operate with the approval, support, and involvement of the tribe, tribes, or Indian communities in the area served by the local facility and program.

(e) Keep in force adequate liability insurance in accordance with the approved application unless the Secretary, for good cause shown, has determined that such insurance was not obtainable or appropriate or has determined that such insurance may be permitted to expire or lapse. The insurance shall provide that prior to cancellation the Secretary must be notified and must further provide that for each such policy of insurance the carrier shall waive any right it may have to raise as a defense the tribe's sovereign immunity from suit but such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower the insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance.

NOTE: This provision is excepted from application of 45 CFR 74.15 by section 103(c) of Pub. L. 93-638.

(f) Provide services at a level and range which is not less than that provided by the Indian Health Service or that identified by the Service as an appropriate level, range, and standard of care.

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#### § 136.106 Grant award and evaluation.

(a) Within the limits of funds determined by the Secretary to be available for such purpose, the Secretary may award grants under this subpart to applicants whose project will, in the judgment of the Secretary, best promote the purposes of the Act, and the regulations of this subpart, taking into account:

(1) The apparent capability of the applicant to organize and manage the proposed project successfully considering, among other things the adequacy of staff, management systems, equipment and facilities.

(2) The soundness of the applicant's plan for conducting the project and for assuring effective utilization of grant funds.

(3) The adequacy of the budget in relation to the scope of the project and available funds.